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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91180742
Party	Plaintiff Dr Pepper/Seven Up, Inc.
Correspondence Address	Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Drive New York, NY 10017 UNITED STATES lpopp-rosenberg@fzlz.com,bsolomon@fzlz.com
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Date	09/01/2009
Attachments	Springate Rebuttal Declaration (F0507806-2).PDF (22 pages)(1480802 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X		
DR PEPPER/SEVEN UP, INC.,	:	
	:	
Opposer/Petitioner,	:	<u>Consolidated Proceedings</u>
	:	Opposition No. 91180742
- against -	:	Cancellation No. 92048446
	:	
KRUSH GLOBAL LIMITED,	:	
	:	
Applicant/Registrant.	:	
-----X		

REBUTTAL TRIAL DECLARATION OF ANDREW D. SPRINGATE

ANDREW D. SPRINGATE declares under penalty of perjury as follows:

1. I am Senior Vice-President of Brand Marketing of Dr Pepper Snapple Group, a corporation duly organized under the laws of Delaware, with its principal place of business at 5301 Legacy Drive, Plano, Texas. Opposer Dr Pepper/Seven Up, Inc. (“Opposer”) is a fully-owned subsidiary of Dr Pepper Snapple Group. In this declaration, I will refer to Dr Pepper Snapple Group, its subsidiaries (including Opposer) and the predecessors of any of them as “DPSG.”

2. I have had an opportunity to review the Trial Declaration of William C. Wright, including the attached exhibits, dated July 15, 2009, submitted on behalf of Krush Global Limited in these proceedings. I submit this declaration as testimony in connection with the above-captioned proceeding in order to address the exhibits that Mr. Wright has submitted and to correct any misimpressions that may be created by Mr. Wright’s commentary about those exhibits and/or Krush Global’s reliance on them.

3. I have access to the books and records of DPSG relevant to the matters covered herein as a regular part of my job. As a result of my current and previous job responsibilities, I am

generally familiar with the history and operation of DPSG and its use and licensing of the CRUSH and CRUSH-formative trademarks (the “CRUSH Marks”). I confirm that the facts and matters set out herein are based on my own knowledge and understanding and/or from the records and documents of DPSG to which I have access and rely on as a regular part of my job.

4. As an initial matter, I would note that most of the documents submitted with Mr. Wright’s declaration that reference DPSG’s CRUSH brand do not accurately reflect the current status of CRUSH branded soda in terms of brand equity, consumer awareness, availability, popularity or sales. The documents Mr. Wright submits and that Krush Global appears to be relying on are simply out of date.

5. As I indicated in my trial declaration and during my cross-examination, the history of the CRUSH brand dates back to 1906, a fact not reflected in the snapshot of exhibits attached to Mr. Wright’s Declaration. Also not reflected is the fact that CRUSH has been and remains an integral part of DPSG’s brand portfolio and currently is the second largest selling orange-flavored beverage in the United States, overtaking FANTA.

6. Addressing Mr. Wright’s exhibits in turn, his Exhibit 3 is from December 2008 and is not a current reflection of DPSG’s business as it relates to CRUSH beverages. While we acknowledge that SUNKIST remains the best-selling brand of orange-flavored soda in the United States, CRUSH is the second best-selling brand of orange-flavored soda, with sales through July 11, 2009 in excess of 15.9 million 288-oz. case equivalents. Moreover, in DPSG’s current marketing presentations, CRUSH is included in the list of DPSG’s “Portfolio of Powerful Brands.” Attached as **Opposer’s Exhibit PX209** are representative pages from a June 9, 2009 presentation given by DPSG at the Deutsche Bank Global Consumer & Food Retail Conference showing that DPSG now names CRUSH among its “Portfolio of Powerful Brands.” The addition of CRUSH to the list of

DPSG's powerful brands has nothing to do with this proceeding and everything to do with the brand's importance to DPSG and its performance in the marketplace.

7. Exhibit 3 to Mr. Wright's Declaration further includes a chart of the top ten flavored carbonated soft drinks in the United States, and Mr. Wright's declaration at paragraph 3 notes the absence of CRUSH from that list. As shown in the attached Opposer's Exhibit PX209, CRUSH is now the No. 8 ranked flavored carbonated soft drink in the United States, with a 2.7% share of a more than \$72.7 billion market.

8. Mr. Wright states that according to his Exhibit 3, FANTA is the second best-selling orange soda in the United States. While that may have been true as of December 2008, as of the four-week period beginning January 25, 2009 and ending February 21, 2009, CRUSH took over the No. 2 spot (behind SUNKIST and ahead of FANTA) and has remained there ever since. From this period (the four-week period beginning January 25, 2009 and ending February 21, 2009) through August 8, 2009, sales of CRUSH exceeded sales of FANTA by more than 3 million 288-oz. case equivalents.

9. Mr. Wright attaches as his Exhibit 4 a document from December 9, 2008 referring to "a high level" of awareness of the SUNKIST brand. According to a brand awareness study conducted by Ipsos S.A. for DPSG as part of its regular business activity,¹ consumer awareness of the SUNKIST brand was 87% around December 2008. (Attached hereto as **Opposer's Exhibit PX210** is a true and correct copy of a summary of the Ipsos survey results for the fourth quarter of 2008, showing an 87% awareness level for SUNKIST.) In a more recent brand awareness study conducted by Ipsos for DPSG as part of our regular business activity, consumer awareness of the

¹ Information about Ipsos S.A., the marketing research Ipsos conduct for DPSG, and DPSG's reliance on the IPSOS research in the course of its regular business activity can be found at paragraphs 44 through 45 of my trial declaration.

CRUSH brand (80%) was almost equivalent to that for the SUNKIST brand (83%). (Attached hereto as **Opposer's Exhibit PX211** is a true and correct copy of a summary of the Ipsos survey showing these results for the first quarter of 2009.) DPSG considers that both brands have a high level of consumer awareness that is essentially the same.

10. At paragraph 6 of his declaration, Mr. Wright states that CRUSH is not one of DPSG's key brands because CRUSH is not listed as such in a 2008 press kit he attaches as his Exhibit 5. This statement is belied by several facts that Mr. Wright neglects to mention. First, CRUSH is on the front cover of DPSG's annual report for 2008. Second, in that same annual report (at page 30), we specifically identify CRUSH as a key brand, along with Dr Pepper, 7UP, Sunkist, A&W in our beverage concentrate segment. True and correct copies of the cover and the relevant pages of DPSG's 2008 annual report are attached hereto as **Opposer's Exhibit PX212**. Third, as of May 2009, all press releases issued by or on behalf of DPSG specifically mention that DPSG's portfolio includes CRUSH. A true and correct copy of one such news release is attached hereto as **Opposer's Exhibit PX213**. This proceeding has had no bearing on these changes, which are due entirely to the importance of the CRUSH brand to DPSG, and the performance of the brand in the marketplace.

11. Mr. Wright uses Exhibit 6 to his declaration, consisting of selected pages from a December 2008 DPSG presentation, as supposed support for a statement in paragraph 7 of his declaration that CRUSH is not considered by DPSG to be one of its "core brands." In making this statement, Mr. Wright relies on the reference in his Exhibit 6 to DPSG's "Core 4" brands. However, "Core 4" is a term of art at DPSG, and does not have the meaning of "central" or "most important" brands that Mr. Wright tries to ascribe to it. (In fact, it is surprising that Mr. Wright would misrepresent the "Core 4" concept in his declaration, since the concept was explained to

Applicant's counsel during my cross-examination taken more than a month before Mr. Wright submitted his declaration.) The "Core 4" concept relates solely and exclusively to certain of DPSG's brands that are sold through the same independent bottler network. If one of our products, whether it be DR PEPPER, CRUSH or SCHWEPES, is not sold through this particular bottler network, it would not be considered part of the "Core 4" brands. And because CRUSH is sold through the Pepsi Bottling Group, by definition it cannot be one of DPSG's "Core 4" brands. (For this same reason, our top selling soft drink, DR PEPPER, is also not considered a "Core 4" brand.)

12. Mr. Wright also has submitted as Exhibit 7 a DPSG press release from December 2008 which refers to the availability of beverages sold under the CRUSH brand. That document is outdated. Currently, the CRUSH brand is available to 99% of the U.S. population and has been so since earlier this year.

13. Mr. Wright next attaches as his Exhibit 8 a document stating that when the CRUSH mark was first created in 1906, the word CRUSH was selected because it referred to a process used to extract oils from oranges. Whatever its past connotations may have been, the CRUSH name has no bearing on and has no reference to any processes used to create any of the non-orange flavored products that have been available since as early as 1960, and neither today nor for many decades has the CRUSH name had any reference to any process used to create orange-flavored CRUSH soda. Moreover, our research suggests that consumers do not consider CRUSH to describe the process by which our soda or any of its ingredients are made made. For example, the majority of consumers (85%) correctly believe that CRUSH orange-flavored soda is not with real fruit juice. In fact, the percentage of consumers who believe CRUSH is made with fruit juice (15%) is similar to the number of consumers who believe FANTA is made with fruit juice (14%) and is substantially lower than the percentage of people who believe that

SUNKIST soda contains fruit juice (22%). True and correct copies of pages from a 2008 IPSOS survey conducted for DPSG as part of its regular business operations setting forth the preceding results are attached hereto as **Opposer's Exhibit PX214**. What this shows is that the mark CRUSH does not convey any descriptive meaning to consumers as to how our product is made or what it is made of.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

Declared under penalty of perjury this 31 day of August, 2009 at Plano, Texas.

Andrew D. Springate
Andrew D. Springate

DR PEPPER/SEVEN UP, INC. v. KRUSH GLOBAL LIMITED

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**OPPOSER'S EXHIBIT
PX209**



Deutsche Bank Global Consumer & Food Retail Conference

Paris

June 9, 2009

Portfolio of Powerful Brands Ranked #1 or #2



#1

Snapple

#1



#1



#1



#1



#2



#1



#1



#2



#1



#1



#2

DPS Remains #1 Flavored CSD Company in the U.S.



Rank	Non-Cola Brands	YTD 2009 \$ share
1	Mountain Dew	27.4
2	 Dr Pepper	18.1
3	Sprite	10.5
4	 7UP	4.6
5	 Sunkist	3.9
6	 AWD	3.7
7	Sierra Mist	2.9
8	 Crush	2.7
9	 Canada Dry	2.3
10	Fanta	2.3

**DPS Dollar Share
Change 2009 vs 2006**



Flavored CSDs

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OPPOSER'S EXHIBIT
PX210

DPS KPIs Q4 2008

Total Sample

Metric	Q1 2024										Q2 2024										Q3 2024										Q4 2024										Annual Total
	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10	
Unaided Awareness	55%	58%	61%	64%	67%	70%	73%	76%	79%	82%	56%	59%	62%	65%	68%	71%	74%	77%	80%	83%	57%	60%	63%	66%	69%	72%	75%	78%	81%	58%	61%	64%	67%	70%	73%	76%	79%	82%	85%		
Total Aware	91%	93%	95%	97%	99%	100%	100%	100%	100%	100%	92%	94%	96%	98%	100%	100%	100%	100%	100%	100%	93%	95%	97%	99%	100%	100%	100%	100%	100%	94%	96%	98%	100%	100%	100%	100%	100%	100%	100%		
Claimed Ad Recall	25%	28%	31%	34%	37%	40%	43%	46%	49%	52%	26%	29%	32%	35%	38%	41%	44%	47%	50%	53%	27%	30%	33%	36%	39%	42%	45%	48%	28%	31%	34%	37%	40%	43%	46%	49%	52%				
PI (top 2 boot)	38%	41%	44%	47%	50%	53%	56%	59%	62%	65%	39%	42%	45%	48%	51%	54%	57%	60%	63%	66%	40%	43%	46%	49%	52%	55%	58%	61%	41%	44%	47%	50%	53%	56%	59%	62%	65%				
Claimed Past Month Purchase	33%	36%	39%	42%	45%	48%	51%	54%	57%	60%	34%	37%	40%	43%	46%	49%	52%	55%	58%	61%	35%	38%	41%	44%	47%	50%	53%	56%	36%	39%	42%	45%	48%	51%	54%	57%	60%				
Claimed Past Month Consumption	30%	33%	36%	39%	42%	45%	48%	51%	54%	57%	31%	34%	37%	40%	43%	46%	49%	52%	55%	58%	32%	35%	38%	41%	44%	47%	50%	53%	33%	36%	39%	42%	45%	48%	51%	54%					
Availability (top 2 boot)	94%	96%	98%	100%	100%	100%	100%	100%	100%	100%	95%	97%	99%	100%	100%	100%	100%	100%	100%	100%	96%	98%	100%	100%	100%	100%	100%	100%	97%	99%	100%	100%	100%	100%	100%	100%	100%				
Equity Pillars:																																									
Family (top 3 boot)	67%	70%	73%	76%	79%	82%	85%	88%	91%	94%	68%	71%	74%	77%	80%	83%	86%	89%	92%	95%	69%	72%	75%	78%	81%	84%	87%	90%	70%	73%	76%	79%	82%	85%	88%	91%					
Uniqueness (top 3 boot)	59%	62%	65%	68%	71%	74%	77%	80%	83%	86%	60%	63%	66%	69%	72%	75%	78%	81%	84%	87%	61%	64%	67%	70%	73%	76%	79%	82%	62%	65%	68%	71%	74%	77%	80%	83%					
Popularity (top 3 boot)	83%	86%	89%	92%	95%	98%	100%	100%	100%	100%	84%	87%	90%	93%	96%	99%	100%	100%	100%	100%	85%	88%	91%	94%	97%	100%	100%	100%	86%	89%	92%	95%	98%	100%	100%	100%					
Relevance (top 3 boot)	38%	41%	44%	47%	50%	53%	56%	59%	62%	65%	39%	42%	45%	48%	51%	54%	57%	60%	63%	66%	40%	43%	46%	49%	52%	55%	58%	61%	41%	44%	47%	50%	53%	56%	59%	62%					
Quality (top 3 boot)	62%	65%	68%	71%	74%	77%	80%	83%	86%	89%	63%	66%	69%	72%	75%	78%	81%	84%	87%	90%	64%	67%	70%	73%	76%	79%	82%	85%	65%	68%	71%	74%	77%	80%	83%	86%					
Equity Index (norm \$1-\$15 only)	159	161	163	165	167	169	171	173	175	177	158	160	162	164	166	168	170	172	174	176	159	161	163	165	167	169	171	173	160	162	164	166	168	170	172	174	176				
calc: 1x/yr (Full Year 2008)																																									
Past Week CSD User/Past Month Category CSD User (13- 65 years of age)																																									
Sample Notes:																																									

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OPPOSER'S EXHIBIT
PX211

DPSG Trademarks - Q1'09

Time Period	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09	People 13-65 Q1'09
Total Sample - Metrics shown among total sample to show market place reality								
Base	2135	2135	2135	2135	2135	2135	2135	2135
Total Brand Awareness	94%	91%	83%	80%	87%	82%	88%	68%
Claimed Ad Recall ¹	41%	25%	7%	5%	14%	9%	5%	5%
Purchase Intent (T2B) ¹	43%	29%	21%	15%	28%	19%	13%	13%
Claimed Past Month Purchase	41%	25%	17%	11%	22%	14%	11%	11%
Claimed Past Month Consumption	41%	26%	16%	10%	22%	15%	11%	11%
Availability (T2B) ¹	87%	83%	57%	44%	71%	56%	40%	40%
Equity Pillars (T3B)								
Familiarity	61%	56%	37%	32%	48%	34%	25%	25%
Uniqueness	57%	37%	26%	24%	37%	30%	23%	23%
Popularity	63%	48%	26%	20%	40%	26%	18%	18%
Relevance	42%	31%	22%	17%	31%	22%	17%	17%
Quality	58%	49%	36%	32%	46%	41%	31%	31%
Aware/Asked - Metrics shown among aware of brand to show opportunity once awareness hurdle is overcome								
Base	1156	1137	1020	988	1075	991	796	796
Claimed Ad Recall	44%	28%	8%	6%	16%	11%	8%	8%
Purchase Intent (T2B)	46%	32%	25%	19%	33%	23%	20%	20%
Claimed Past Month Purchase	44%	28%	21%	14%	26%	17%	16%	16%
Claimed Past Month Consumption	44%	28%	20%	13%	25%	18%	16%	16%
Availability (T2B)	94%	93%	69%	56%	81%	69%	60%	60%
Equity Pillars (T3B)								
Familiarity	65%	62%	45%	40%	55%	42%	37%	37%
Uniqueness	61%	41%	32%	30%	43%	37%	34%	34%
Popularity	66%	54%	32%	25%	46%	31%	26%	26%
Relevance	45%	35%	26%	22%	36%	27%	25%	25%
Quality	62%	55%	44%	40%	53%	51%	46%	46%

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¹ Carb brands asked on random 9 brands aware. Rebased back to total using weighting

*Small base size (n<50); use with caution

BTS = Base too small to report; n<30

NA = Question not asked for brand

Note: Equity pillars asked among aware of brand and among the Trademark level only

Snapple Trademark	People 13-65 Q1'09	People 13-65 Q1'09	Juice	Mott's	Sauce	Lime Juice	Cocktail/Mojitos	M-T	WATERBURY
Adults 21-65, P3M Consumption of Mix Drink									
	240	126	182	200	200	200	200	200	200
	90%	76%	93%	50%	50%	50%	49%	49%	50%
	17%	5%	13%	6%	6%	6%	4%	9%	9%
	29%	17%	47%	30%	30%	30%	10%	26%	27%
	15%	15%	30%	9%	6%	6%	11%	11%	11%
	16%	18%	32%	15%	15%	15%	7%	15%	13%
	68%	62%	87%	41%	41%	41%	11%	40%	33%
	240	126	182	200	200	200	200	200	200
	43%	35%	57%	29%	29%	29%	7%	26%	27%
	38%	15%	38%	25%	25%	25%	10%	19%	23%
	50%	29%	66%	28%	28%	28%	10%	25%	24%
	27%	21%	49%	19%	19%	19%	8%	20%	20%
	49%	40%	62%	31%	31%	31%	13%	25%	24%
	216	96	170	99	48*	48*	98	100	100
	19%	6%	14%	12%	15%	15%	17%	18%	18%
	32%	23%	50%	61%	42%	42%	53%	54%	54%
	17%	18%	32%	18%	21%	21%	31%	21%	21%
	18%	24%	35%	29%	29%	29%	31%	25%	25%
	75%	81%	94%	82%	46%	46%	81%	66%	66%
	216	96	170	99	48*	48*	98	100	100
	47%	46%	61%	59%	54%	54%	52%	54%	54%
	42%	20%	41%	51%	42%	42%	38%	45%	45%
	56%	39%	71%	57%	40%	40%	51%	48%	48%
	33%	28%	52%	38%	31%	31%	41%	39%	39%
	55%	53%	66%	62%	52%	52%	51%	48%	48%

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OPPOSER'S EXHIBIT
PX212



ANNUAL REPORT 2008



**FUELED BY
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improve route productivity and data integrity and standards. With third party bottlers, we continue to deliver programs that maintain priority for our brands in their systems.

Improve operating efficiency. We completed a series of restructurings in our organization from 2006 to 2008. We believe these restructurings have reduced our selling, general and administrative expenses and improved our operating efficiency. In addition, the integration of acquisitions into our Bottling Group has created the opportunity to improve our manufacturing, warehousing and distribution operations. For example, we have been able to create multi-product manufacturing facilities (such as our Irving, Texas facility) which provide a region with a wide variety of our products at reduced transportation and co-packing costs.

Our Business Operations

As of December 31, 2008, our operating structure included four business segments: Beverage Concentrates, Finished Goods, Bottling Group and Mexico and the Caribbean. Segment financial data for 2008, 2007 and 2006, including financial information about foreign and domestic operations, is included in Note 23 of the Notes to our Audited Consolidated Financial Statements.

Beverage Concentrates

Our Beverage Concentrates segment is principally a brand ownership business. In this segment we manufacture beverage concentrates and syrups in the United States and Canada. Most of the brands in this segment are CSD brands. In 2008, our Beverage Concentrates segment had net sales of approximately \$1.4 billion before the elimination of intersegment transactions. Key brands include Dr Pepper, 7UP, Sunkist, A&W, Canada Dry, Schweppes, Squirt, RC, Crush, Diet Rite, Sundrop, Welch's, Vernors and Country Time and the concentrate form of Hawaiian Punch.

We are the industry leader in flavored CSDs with a 38.4% market share in the United States for 2008, as measured by retail sales according to The Nielsen Company. We are also the third largest CSD brand owner as measured by 2008 retail sales in the United States and Canada and we own a leading brand in most of the CSD categories in which we compete.

Almost all of our beverage concentrates are manufactured at our plant in St. Louis, Missouri. The beverage concentrates are shipped to third party bottlers, as well as to our own Bottling Group, who combine the beverage concentrates with carbonation, water, sweeteners and other ingredients, package it in PET, glass bottles and aluminum cans, and sell it as a finished beverage to retailers. Concentrate prices historically have been reviewed and adjusted at least on an annual basis.

Syrup is shipped to fountain customers, such as fast food restaurants, who mix the syrup with water and carbonation to create a finished beverage at the point of sale to consumers. Dr Pepper represents most of our fountain channel volume.

Our Beverage Concentrates brands are sold by our bottlers, including our own Bottling Group, through all major retail channels including supermarkets, fountains, mass merchandisers, club stores, vending machines, convenience stores, gas stations, small groceries, drug chains and dollar stores. Unlike the majority of our other CSD brands, 73% of Dr Pepper volumes are distributed through the Coca-Cola affiliated and PepsiCo affiliated bottler systems.

Coca-Cola and Pepsi affiliated systems each constituted approximately 15% of the net sales of our Beverage Concentrates segment.

Finished Goods

Our Finished Goods segment is principally a brand ownership and a bottling business and, to a lesser extent, a distribution business. In this segment, we primarily manufacture and distribute finished beverages and other products in the United States and Canada. Most of the beverages in this segment are NCBs, such as ready-to-drink teas, juice and juice drinks. Most of our sales of Snapple are included in the Finished Goods segment. In 2008, our Finished Goods segment had net sales of approximately \$1.6 billion before the elimination of intersegment

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OPPOSER'S EXHIBIT
PX213

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News Releases

Dr Pepper Snapple Group to Present at Goldman Sachs Consumer Products Symposium

PLANO, Texas, May 8 /PRNewswire-FirstCall/ -- Dr Pepper Snapple Group, Inc., today announced that Larry Young, president and CEO, present at the Goldman Sachs Consumer Products Symposium 2009 at 9:15 a.m. (EDT) on Thursday, May 14.

The audio and slide presentation will be accessible live through the DPS website at <http://www.drpeppersnapple.com> and will be archived replay for a period of 14 days.

About Dr Pepper Snapple Group

Dr Pepper Snapple Group, Inc. is the leading producer of flavored beverages in North America and the Caribbean. Our success is fueled than 50 brands that are synonymous with refreshment, fun and flavor. We have 6 of the top 10 non-cola soft drinks, and 8 of our 12 "power" brands are No. 1 in their flavor categories. In addition to our flagship Dr Pepper and Snapple brands, our portfolio includes Sunkist soda, 7UP, A&C Canada Dry, Crush, Mott's, Squirt, Hawaiian Punch, Penafiel, Clamato, Schweppes, Rose's and Mr & Mrs T mixers. To learn more about brands and Plano, Texas-based company, please visit www.drpeppersnapple.com.

SOURCE: Dr Pepper Snapple Group, Inc.

Web site: <http://www.drpeppersnapple.com/>

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OPPOSER'S EXHIBIT
PX214



Factors / Attributes

	Sunkist Q4'08	Crush Q4'08	Fanta Q4'08
Base: Total Sample	(501)	(223)	(315)
Tastes good	61%	39%	51%
Has a consistent taste every time I drink it	54%	30%	44% ↑
Good drink any time	48%	28%	43% ↑
Refreshing	47%	32%	36%
A drink for me	45%	23%	38%
Thirst-quenching	45%	30%	34%
Smooth taste	40%	26%	34%
No aftertaste	37%	23%	32% ↑
Trusted alternative to cola	36%	25%	32% ↑
Pleasant aroma	49%	26%	34% ↑
Is an everyday choice	39%	17%	31%
Fun to drink	44%	28%	36% ↑
Energizes me	27%	15%	23%
Revitalizes me	30%	15%	23%
Relaxes me	24%	12%	20%
Is a special occasion choice	18% ↑	15%	14%
This brand is different from other soft drink brands	23%	15% ↑	21%
Worth paying a little more for	23%	17% ↑	16% ↑
Is a treat	38%	25%	30%
Taste you can't get enough of	31%	17%	25% ↑
A favorite drink with my friends	28%	13%	23% ↑
My whole family enjoys this brand	43%	21%	32% ↑
Cool brand to be seen with	26%	12% ↓	25% ↑
Is a diet soft drink	6%	4%	7%
Zero calories	4%	4%	5%
Kids like it	62%	36%	51%
Offers an exciting 'under-the-cap' promotion/contest	13%	7%	14%
Offers appealing promotions, contests, and prizes on product packaging	16%	4%	14%
Bold taste	41% ↑	18%	34% ↑
Rich, complex flavor	29%	17%	27% ↑
Good for mixing with other beverages	16%	11%	17%
Crisp taste	36%	24%	30% ↑
All natural/All natural ingredients	17%	6%	12% ↑
Better for me than other soft drinks	19%	10%	17% ↑
Has no preservatives	13%	8%	12% ↑
Contains real fruit juice	22% ↑	15%	14%
Bold fruit flavor	42% ↑	29%	38% ↑

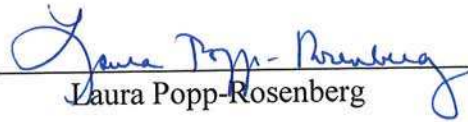
↓ ↑ Significantly lower/higher than Q4'07



Ipsos Brand Tracker: Sunkist Update, Q4 2008 5

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **Rebuttal Trial Declaration of Andrew D. Springate** and accompanying exhibits to be sent by email to counsel for applicant, Jason Drangel, Esq., jdrangel@ipcounselors.com, this 1st of September, 2009.



Laura Popp-Rosenberg